
BZA-1712
MANUEL AND AGUEDA GAETA
Variance

STAFF REPORT
May 18, 2006

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REQUEST MADE, PROPOSED USE, LOCATION:

Petitioners, who are also the property's owners, are requesting the following four variances:

1. To allow a 30' rear setback instead of the required 40';
2. To allow a 5' side setback instead of the required 30';
3. To eliminate the required 20' Type C bufferyard along 75' of the northern property line (between the proposed building and the east property line);
4. To reduce the required 20' Type C bufferyard to 10' in width along 60' of the east property line (starting at the northern property line);

in order to construct a commercial building for a car dealership on property located at 1927 South Creasy Lane, Fairfield 35(SE) 23-4.

AREA ZONING PATTERNS:

The property in this request was rezoned from R1 to GB by the County Commissioners in November 2003 (Z-2149). The seven single-family homes directly to the north are all zoned R1; R3 can be found to the east. GB zoning is directly south and west. Further south, all four corners of the Creasy/SR 38 intersection are zoned GB.

AREA LAND USE PATTERNS:

Petitioners have recently torn down the home that was once located here; only the driveway and house foundation are left. The swimming pool has also been removed and a large hole is all that remains.

Directly north of this site along the east side of Creasy Lane are 7 single-family homes. Immediately south of this lot is a Village Pantry/Marathon gas station. Auto dealerships can be found west across Creasy and further south on the south side of SR 38. Multi-family apartments are located behind petitioner's property to the east.

TRAFFIC AND TRANSPORTATION:

Creasy Lane and SR 38 are both classified as primary arterials in the *Thoroughfare Plan*. Traffic counts taken in 2002 indicate that 19,377 cars passed this site daily.

Because this is a commercially zoned lot, there is a 5' no-parking setback along the front, rear and side lot lines. Parking requirements for automotive sales are 1 space per 400 sq. ft. of gross floor area. With a 1575 sq. ft. building, 4 spaces would be required. If there is an auto service component to the business, then 1 space per 200 sq. ft. of gross floor area is required.

How the traffic flow will be managed on site is not entirely clear based on the site plan

submitted. The proposed building will have garage doors to the rear, and the proposed driveway leading to these doors is the reason for the reduction in the rear bufferyard. Staff does not know if the existing residential driveway will be utilized for the business or not. Either way a commercial drive permit will be required.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

City utilities serve the site. Drainage plans will have to be approved by the County Drainage Board prior to the issuance of an Improvement Location Permit (ILP).

A Type C bufferyard measuring 20' wide with 4 standard plant units is required where GB zoning abuts residential zoning on the northern and eastern property line. The site plan shows this Type C bufferyard using the plant units in Alternative 1. While the exact plant list has not been shown, Alternative 1 consists of one 3" caliper canopy tree, two 1 ½" caliper under-story trees and ten 3' high shrubs per 150' of linear length.

STAFF COMMENTS:

The site plan submitted does not show the required 5' no-parking setback, the driveway location, or the area petitioners' intend to pave. A revised site plan showing these items will be a condition of these requests.

Petitioners are requesting four variances: two variances to reduce or eliminate the required bufferyards and two setback variances to allow construction of a sales building for a proposed car lot. In the GB zone, the side setback is 0' and the rear setback is 15', except in cases where the lot abuts a residential use or zone, then the setbacks are increased. In this instance, a single-family home in the R1 zone is situated immediately north and apartments in the R3 border to the east so the north side setback is 30' and the rear setback is 40'.

Petitioners would like to locate their building 5' from the northern (side) lot line, instead of the required 30'. The petition states that the area that once contained a swimming pool is unstable for a building site and prevents them from building there. While this land may require fill and compaction, it could still be stabilized enough to support a building. In fact, the site plan indicates a driveway will be located on top of the former pool site. Fill and compaction for the driveway would be just as necessary as for a building.

The two requests for reduced bufferyards are only necessary because of the proposed location of the building in the rear and side setbacks. One possible solution would be to place the building directly west of the former pool site where the permitted side setback is 0'. This would allow for the driveway to access the building without reducing the eastern bufferyard. While this may reduce the area available in the front of the lot used to show cars, it protects the existing residence to the north and allows for the required bufferyards to function as they were intended.

1. The Area Plan Commission determined at its April 19, 2006 meeting that the variances requested **ARE NOT** use variances.

And it is staff's opinion that:

2. The granting of these variances **WILL NOT** be injurious to the public health, safety,

morals and general welfare of the community. The proposed building site (variances 1 and 2) and reduced bufferyards (variances 3 and 4) will not have a negative impact on the adjacent properties because the apartment complex on the east side is separated from this site by a large open area. Staff foresees a limited residential future for the properties to the north.

3. Regarding all variances, the use and value of the area adjacent to the property included in these requests **WILL NOT** be affected in a substantially adverse manner because the apartments to the east are almost 100' away and should not be affected by these variances. The property to the north, though a residence currently, will most likely be a part of future commercial expansion.
4. The terms of the zoning ordinance are being applied to a situation that **IS** common to other properties in the same zoning district. There is nothing unusual about the size, shape or topography of this lot. The fact that the pool has been removed and not filled in does not constitute an ordinance-defined hardship since the building can be placed in a different location away from the pool and meet the ordinance requirements for setbacks and bufferyards (variances 1, 2, 3 and 4).
5. The strict application of the terms of the zoning ordinance **WILL NOT** result in an unusual or unnecessary hardship as defined in the zoning ordinance. If these variances (variances 1, 2, 3 and 4) are not granted, petitioners would still be able to build their structure and have their car lot on site, just in a different configuration.

5a. The hardship involved **IS** solely based on a perceived reduction of or restriction on economic gain. Petitioners state in their application that they will be able to place more cars for sale on the lot if they can reduce setbacks and bufferyards (variances 1, 2, 3 and 4).

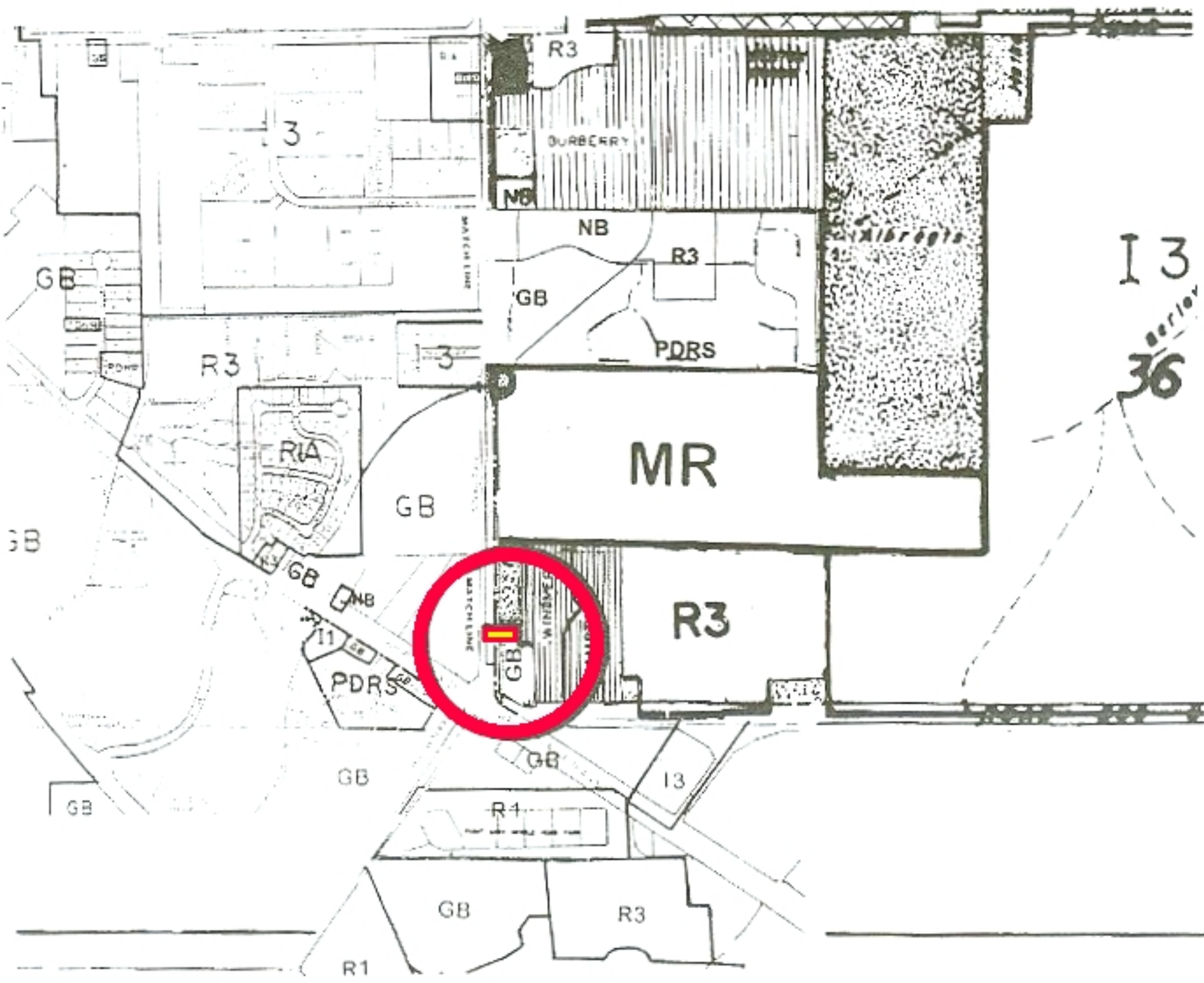
5b. The variances sought **DO NOT** provide only the minimum relief needed to alleviate the hardship. There is no minimum relief because the building could be placed either on top of or directly west of the former pool site.

STAFF RECOMMENDATION:

variance #1 Denial
variance #2 Denial
variance #3 Denial
variance #4 Denial

If these requests are approved, staff recommends the following conditions:

1. A new site plan showing the 5' no-parking setback, driveway and paved area locations;
2. a copy of the commercial drive permit from the City of Lafayette; and
3. some indication from the County Surveyor that Drainage Board approval has been received.



GAS Station

1927
S. Creasy Ln

← 10.3 ft →

← 217 ft →

Alternative 1

Alternative 2
Type C

← 35 ft →

Proposed
Commercial
Building

← 45 ft →

← Garage →

Pool
(To be Removed)

20' Buffer yard

← Type C Alternative 1 →

10' Buffer yard

← GRASS →

Residential Dwelling

↑ N

Creasy Ln

Each Square
25 ft